

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION**

JAMES DALLAS GOODSON,)
Petitioner,)
)
v.)
)
COMMONWEALTH OF VIRGINIA,)
Respondent.)
)

Civil Action No. 7:09-cv-00433

MEMORANDUM OPINION

By: Samuel G. Wilson
United States District Judge

Petitioner James Dallas Goodson, a Virginia inmate proceeding pro se, filed this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging his 2009 rape conviction in the Washington County Circuit Court. As grounds for relief, Goodson argues ineffective assistance of counsel. The court finds that Goodson has failed to exhaust his state court remedies before filing this federal habeas petition and, therefore, dismisses his petition without prejudice.

I.

On June 8, 2009, the Washington County Circuit Court convicted Goodson of rape by force or threat and sentenced him to twenty years incarceration with fifteen years suspended. Goodson concedes that he did not file a direct appeal and has not yet pursued a state habeas petition in any state court.

II.

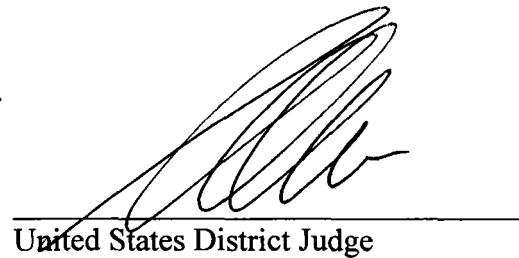
A federal court cannot grant a habeas petition unless the petitioner has exhausted the remedies available in the courts of the state in which he was convicted. Preiser v. Rodriguez, 411 U.S. 475 (1973). If the petitioner has failed to exhaust state court remedies, the federal court must dismiss the petition. Slayton v. Smith, 404 U.S. 53 (1971). In Virginia, a non-death row felon ultimately must present his claims to the Supreme Court of Virginia and receive a ruling from that court, before a federal district court may consider his claims. See Va. Code §8.01-654. In this case, it is clear from the face of his petition that Goodson has yet to pursue his claims in the Supreme

Court of Virginia. Accordingly, the court dismisses Goodson's instant petition, without prejudice, as unexhausted.

III.

The Clerk is directed to send a certified copy of this Memorandum Opinion and accompanying Order to the petitioner.

ENTER: This 26th day of October, 2009.



United States District Judge